IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2007

CORAM

THE HONOURABLE MR. JUSTICE V. DHANAPALAN

W.P.No.25804 of 2007
and
M.P.No.1/2007

K.Sellamuthu ... Petitioner

vs.

1. The State of Tamil Nadu
represented by Secretary to Government
Department of Commercial Taxes
Fort St.George, Chennai 600 009.

2.The Sub-Registrar
Pallavaram Sub-Registrar Office
Pallavaram, Chennai ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the provisions of G.O.Ms.No.150, Commercial Taxes Department dated 22.09.2000 in notification No.11(2)/CT/1021(e) 2000 as ultra vires and directing the second respondent to release the petitioner's document pending on his file as Document No.299 of 2001.

For Petitioner : Mrs.Sudha Ramalingam

For Respondents : Mr.L.S.M.Hasan Fizal,
Government Advocate

O R D E R

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice for the respondents.

2. This writ petition has been filed praying to issue a writ of mandamus directing the second respondent to release the petitioner's document pending on his file as Document No.299 of 2001.

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3. It is the case of the petitioner that he purchased the property and presented the document to the second respondent for registration and the same is registered as a pending document without being assigned a regular registration number for production of 'No Objection Certificate' from the concerned authority.

4. In G.O.Ms.No.150, Commercial Taxes Department, dated 22.09.2000, the Government has ordered that unless a sealed No Objection Certificate is issued by the competent authority, the documents presented for registration cannot be accepted. It is also stated in the said Government Order that as per Section 22-A of the Registration Act, 1908, conveyance of properties belonging to any religious institutions and conveyance of lands converted as house sites without the approved layouts cannot be granted unless a No Objection Certificate issued by the authority concerned is produced before the registering officer.

5. The Supreme Court in its judgment reported in 2005 (12) SCC 77 in the case of State of Rajasthan vs. Basant Nahata has upheld the Division Bench judgment of the Rajasthan High Court invalidating Section 22-A of the Registration Act, 1908. In the light of the decision of the Honourable Supreme Court invalidating Section 22-A of the Act itself, the G.O.Ms.No.150, Commercial Taxes Department, dated 22.9.2000 cannot stand and this Court has been following the said decision of the Supreme Court and several writ petitions have been allowed holding that the Registrar/Sub-Registrar of the Registration Department cannot insist on 'No Objection Certificate'.

6. When the matter was taken up, learned Government Advocate produced a copy of the Government Order in G.O.Ms.No.139 Commercial Taxes and Registration (J1) Department, dated 25.07.2007, in and by which, a notification has been appended and the same reads as follows :

> "In exercise of the powers conferred by sub-section (1) of section 22-A of the Registration Act, 1908 (Central Act XVI of 1908) read with section 15 of the Tamil Nadu General Clauses Act, 1891 (Tamil Nadu Act 1 of 1891), the Governor of Tamil Nadu hereby revokes the Commercial Taxes Department Notification issued in G.O.Ms.No.150, Commercial Taxes Department, dated 22.09.2000 and published as Notification No.11 (2)/CT/1024(e)/2000 at pages 1 to 2 of Part II – Section 2 of the Tamil Nadu Government Gazette, Extraordinary, dated the 22nd September 2000.

7. Since the above notification revokes G.O.Ms.No.150 Commercial Taxes Department, dated 22.9.2000, the insistence of No

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Objection Certificate for registration or release of pending document before the Registrar/Sub-Registrar of the Sub-Registration Department is no longer required as no cause of action arises. As such, there is no need for the petitioner to obtain No Objection Certificate from the authority concerned.

8. In view of the above, the writ petition is allowed with a direction to the petitioner to approach the second respondent claiming the release or registration of document and the second respondent is directed to release the sale deed dated 07.08.2001 registered as Pending Document No.299 of 2001 in respect of the Plot bearing No.26 measuring an extent of 1204 sq. ft. in S.No.438/7A, Patta Number 80, Paimash Numbers 292/1, 292/3, Old No.153, New No.97, Sunnambu Kolathur, Pallavaram Sub Registration District,, without insisting on production of No Objection Certificate, provided it is presented on payment of necessary stamp duty and if there is no other legal impediment. No costs. Consequently, M.P.No.1 of 2007 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ksr

To

1. The Secretary to Government of Tamilnadu
Department of Commercial Taxes
Fort St.George, Chennai 600 009.

2.The Sub-Registrar
Pallavaram Sub-Registrar Office
Pallavaram, Chennai

1 cc to M/s. Sudha Ramalingam, Advocate, sR. 49311

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